

Office of the Secretary of Defense

§216.3

their campuses in a manner that is at least equal in quality and scope to the access to campuses and to students provided to any other employer, or access to student-recruiting information. The term “equal in quality and scope” means the same access to campus and students provided by the school to the any other nonmilitary recruiters or employers receiving the most favorable access. The focus is not on the content of a school’s recruiting policy, but instead on the result achieved by the policy and compares the access provided military recruiters to that provided other recruiters. Therefore, it is insufficient to comply with the statute (10 U.S.C. 983) if the policy results in a greater level of access for other recruiters than for the military.

(c) Updates policy and responsibilities relating to the management of covered schools that have an anti-ROTC policy.

§216.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments (including the Coast Guard when it is operating as a Military Service in the Navy), the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as “the DoD Components”). This part also applies, by agreement with the Department of Homeland Security (DHS), to the Coast Guard at all times, including when it is a service in the Department of Homeland Security. The policies herein also affect the Departments of Transportation, Homeland Security, Energy (National Nuclear Security Administration), the Central Intelligence Agency, and any department or agency in which regular appropriations are made in the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act. The term “Military Services,” as used herein, refers to the Army, the Navy, the Marine Corps, the Air Force, and the Coast Guard, including their Reserve or National Guard Components. The term “Related Agencies” as used herein refers to the Armed Forces Retirement Home, the Corporation for National and Community Service, the

Corporation for Public Broadcasting, the Federal Mediation and Conciliation Service, the Federal Mine Safety and Health Review Commission, the National Commission on Libraries and Information Science, the National Council on Disability, the National Education Goals Panel, the National Labor Relations Board, the National Mediation Board, the Occupational Safety and Health Review Commission, the Social Security Administration, the Railroad Retirement Board and the United States Institute of Peace.

§216.3 Definitions.

(a) *Anti-ROTC policy.* A policy or practice whereby a covered school prohibits or in effect prevents the Secretary of Defense from maintaining, establishing, or efficiently operating a unit of the Senior ROTC at the covered school, or prohibits or in effect prevents a student at the covered school from enrolling in a Senior ROTC unit at another institution of higher education.

(b) *Covered funds.* “Covered funds” is defined in 10 U.S.C. 983 as any funds made available for the Departments of Defense, Transportation, Homeland Security, or National Nuclear Security Administration of the Department of Energy, the Central Intelligence Agency, or any department or agency in which regular appropriations are made in the Departments of Labor, Health and Human Services, and Education, as well as in Related Agencies Appropriations Act (excluding any Federal funds provided to an institution of higher education, or to an individual, to be available solely for student financial assistance, related administrative costs, or costs associated with attendance).

(c) *Covered school.* An institution of higher education, or a subelement of an institution of higher education, subject to the following clarifications:

(1) A determination (§216.5(a)) affecting only a subelement of a parent institution (see §216.3(f)) effects a limitation on the use of funds (see §216.4 (a)) applicable to the parent institution as a whole, including the institution’s offending subelement and all of its subelements, if any.